

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff

vs

Civil Action No 03-364Erie
Misc No 04-9E

TIMOTHY B MOON and
EVE L. MOON

Defendants

MOTION FOR ALTERNATIVE SERVICE
AS TO TIMOTHY B. MOON

AND NOW, comes Plaintiff, the United States of America, by and through its counsel, Mary Beth Buchanan, United States Attorney in and for the Western District of Pennsylvania and the Bernstein Law Firm, P.C., private counsel to the United States of America, and files its Motion for Alternative Service as to Timothy B. Moon, as follows:

1. Plaintiff the United States of America entered a judgment on its Complaint in Mortgage Foreclosure in this action on February 17, 2004, against Defendants Timothy B Moon and Eve L Moon, with regard to certain property located in Venango County, Pennsylvania, as more fully described in Plaintiff's Mortgage

2. Plaintiff issued a Writ of Execution on March 29, 2004, which was later reissued on June 22, 2005, to enforce the Judgment in Mortgage Foreclosure and has been unable to obtain service of the Notice of Sale on Defendant Timothy B. Moon.
3. Plaintiff attempted to serve Defendant Timothy B. Moon with the Notice of Sale through the U S Marshal service at his last known address at 493 Upper Sage Run Road, Oil City, PA 16301, being the property address and being the same address where said Defendant accepted service of the Complaint
4. The U S. Marshal was unable to serve the aforesaid Defendant, because the Marshal reports that he was unable to locate said Timothy B. Moon. True and correct copies of the Marshal's (Form 285) return of no service is attached hereto, marked as Exhibit "1" and made a part hereof.
5. The Plaintiff obtained recent credit report for Defendant, Timothy B. Moon, which lists Defendant's current address as 493 Upper Sage Run Road , Oil City, PA 16301, being the subject property address.
6. Plaintiff has also investigated Defendant's whereabouts with Directory Assistance, which confirmed no public listing for Defendant, Timothy B. Moon

7. Plaintiff made inquiry of the Venango County Office of Voter Registration a representative of which advised that the Defendant Timothy B. Moon is registered to vote in Venango County with a registered address of RD 2, Box 444-A, Oil City, PA 16301 which is a former address
8. Plaintiff inquired with the U.S. Postmaster of Republic, PA for a change of address for the Defendant. The Postmaster advises that the address of 493 Upper Sage Run Road, Oil City, PA 16301, is the correct address for the Defendant. True and correct copies of the Postal Letter is attached hereto, marked as Exhibit "2" and made a part hereof
9. Rule 430 of the Pennsylvania Rules of Civil Procedure provides that if service cannot be made under the applicable rule, the Plaintiff may move the court for a special order directing the method of service.
10. With respect to real property actions, Pennsylvania Rule of Civil Procedure 410 provides that, if service is made pursuant to an Order of Court under Rule 430(a), the Court shall direct one or more of the following methods of service:
 - (1) publication as provided by Rule 430(b),
 - (2) posting a copy of the original process on the most public part of the property,
 - (3) registered mail to the defendant's last known address, and
 - (4) such other methods, if any, as the court deems appropriate to give notice to the Defendant.
11. Plaintiff believes that adequate service on the Defendant, Timothy B. Moon, in this case will be provided by posting a copy of the original process on the most public part of the mortgaged property at 493 Upper Sage Run Road, Oil City, PA 16301.

WHEREFORE, Plaintiff requests that this Honorable Court enter an Order authorizing service of process on Defendant, Timothy B Moon by posting the mortgaged premises known as 493 Upper Sage Run Road, Oil City, PA 16301.

Respectfully submitted,

BERNSTEIN LAW FIRM, P.C.

By: 

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Attorney for Plaintiff

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